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SUBJECT: TURKEY'S PARTY CLOSURE CASE BARRELS TO CONCLUSION

Classified By: AMBASSADOR ROSS WILSON FOR REASONS 1.4 (B) AND (D)

¶1. (c) Summary: It is increasingly expected in Turkey that the Constitutional Court will close the ruling Justice and Development Party (AKP) and ban a range of its leaders, especially PM Erdogan. In the wake of a ruling that could occur this autumn or possibly sooner, the AKP plans to re-form itself promptly under a new name, hopes to retain sufficient MPs to govern alone, and looks toward early elections to revive its mandate. Key wildcards include: the court's timing, how many current AKP MPs bolt as pressure mounts, whether banned AKPers will be allowed to run for parliament as independents, and whether the court tries to touch President Gul. The court's decision will bring great uncertainty to Turkey, but instability here is unlikely. End Summary

¶2. (c) Hard information about what the Constitutional Court will do is impossible to come by. Speculation is intense and all over the map. In the wake of the annulment of the headscarf ban constitutional amendments -- a ruling widely criticized as an abuse of the court's review authorities, most here now expect closure of the AKP and banning of its leaders. Turks are fatalistic; many wish someone would step forward to calm the situation and head off a looming crisis, but no one is doing so. Former President Demirel has ruminated with former aides about getting involved, but not until the situation is "really spoiled." Like some AKPers, a Nationalist Action Party (MHP) MP we spoke with believed the court's "extreme" ruling in the headscarf case presages a lesser penalty than closure and bannings, but he acknowledged this may be wishful thinking. Court president Hasim Kilic has been quoted by a close relative as saying closure is a "done deal," though there are also reports he is trying to cobble together enough votes to block this result. It is worth bearing in mind that the court is simultaneously facing a closure case against the pro-Kurdish Democratic Society Party (DTP).

¶3. (c) The court's timing is uncertain, and this is part of the speculation game, as well. The AKP has tried to speed matters up and submitted its final written defense on June 16, two weeks before the deadline. Oral arguments by the prosecutor and the AKP are set for July 1 and 3, respectively, after which a court rapporteur will likely take at least a few weeks to prepare a report. Only then will the court consider the matter. AKP leaders hope for a resolution in July or August; later, possibly months later, seems more likely. Delay keeps the AKP off-balance, undermines its bid to reorganize for local elections next March, and gives time for public support or at least acquiescence to the AKP's closure to grow.

¶4. (c) A traditional August judicial recess and annual military promotions that month may also be factors. The prime minister chairs the promotion board in the first week

of August, and the president must sign off on its recommendations before they take effect. The Turkish military, therefore, will prefer calm and clear continuity of government throughout the month. Meddling in the selection of a new CHOD or other top level commanders by PM Erdogan and/or President Gul -- which they have every legal right to do (and which PM Ozal did in the 1980s) -- is a potential, if unlikely flashpoint. However, press speculation about such meddling has surfaced here in recent days.

15. (c) In the wake of a ruling, the AKP appears certain to re-organize itself as a new party. Media pundits have suggested the rump AKP might take over an existing small party or establish a completely new one. The latter seems more likely. If its MPs hang together, they can continue a one-party government. But disagreements over how to respond to the closure case have deepened fissures that may break the AKP's unity. Rumors abound of defections. They were serious enough that Erdogan felt compelled to state publicly at a party meeting last week that those who "get off the train" will not be allowed back on. To keep an eye on potential waverers, he won party agreement that parliament will remain in session until the court rules.

16. (c) Many expect parliamentary elections to follow soon after a new government is reconstituted. They can normally occur 90-120 days after parliament dissolves itself. The date is set by the Supreme Election Board. By-elections to replace banned MPs are an alternative to general elections (but they would occur only if 5 percent or more seats become vacant) e.g., 27), as is a by-election in an individual constituency if all its MPs are removed or resign. The last

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is talked about as a relatively quick and easy way to get Erdogan elected an independent MP.

17. (c) Uncertainties in the period ahead are many.

-- The court could decline to close the party and/or to ban its leadership. Few expect this now, but many we speak with -- including opponents of the government -- have talked in recent weeks about the damage a bloodthirsty verdict will do to Turkey's international image, economy, and respect for the judiciary. They also note it might aggravate, rather than tame, radical Islamization here. Kemalists, however, tell us that increased instability will not deter the judiciary and military from what they see as their duty to defend the secular republic from the AKP threat.

-- The court or other institutions may rule in ways not obviously consistent with the constitution, laws or precedent (as happened in the headscarf case). For example, though the law and precedent clearly suggest that Erdogan and other banned figures should be able to run as independents in new elections, the court or election board may assert that they cannot. Key Kemalists have argued as much in recent days. Though the constitution stipulates that presidents can be removed only for treason that neither the prosecutor nor anyone else has accused Gul of, the Court could still try to remove him.

-- Could the normally smooth process of forming a replacement for the AKP be slowed or even prevented by the court? Will the AKP in fact hold together? Former AKP DPM Sener has talked about forming a new party after a closure decisions, a move that could catalyze the rump AKP,s break-up into its religious, nationalist and liberal wings. An unstable minority government could result.

18. (c) Although pending uncertainty seems obvious, unrest does not. A prominent middle-of-the-road journalist remarked recently that Erdogan could bring his supporters to the street with just one word, but thought such tactics unlikely. An academic who sees Erdogan regularly described him as confident and even serene. A leader who has been through

party closures and a personal "lifetime" ban from politics that was lifted after the AKP's win in 2002, Erdogan in this telling believes he has the people with him and can wait for five or even ten years for his opportunity to return. (We have also heard about an angry Erdogan lashing out privately at aides and staff, but this isn't inconsistent with a confident public demeanor.) More likely, he and other senior AKP leaders will avoid desperate moves and look instead for a way to crawl out of this corner and resume the battle later.

19. (c) The big problem with scenarios that would keep a rump AKP in office and have a prospect of Erdogan's return as prime minister is that they would surely disappoint the closure case's initiators. Having gone to all the trouble of bringing this case, and given their hatred of Erdogan, Gul and AKP, it seems unlikely that they will accept a solution that keeps or brings them back into power. These are old adversaries, however, and the AKP's opponents may be as patient as Erdogan in playing this out. What further straws both sides may grasp at is another uncertainty Turkey will face in the coming weeks and months.

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